

**Association for  
Competitive Technology**

● *Preserving the freedom to achieve, to compete and to innovate.*

December 1, 2000

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554

**RECEIVED****DEC 1 2000****FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

Re: **GN Docket No. 00-185** ✓

**COMMENTS OF THE ASSOCIATION FOR COMPETITIVE TECHNOLOGY IN  
RESPONSE TO THE NOTICE OF INQUIRY**

The Association for Competitive Technology ("ACT") submits the following comments in response to the Notice of Inquiry ("NOI") concerning high-speed access to the Internet over cable and other facilities. ACT's desire is to assist the Federal Communications Commission ("FCC") in determining what, if any, regulatory treatment should be afforded high-speed access to the Internet ("broadband"). The comments reflect our belief that the FCC should maintain its current "hands off" regulatory policy and allow market forces to achieve the goal of deploying high-speed Internet facilities. Our member companies are fighting for capital, customers and market share. Burdensome and confusing regulations will stifle the investment dollars and innovation that serve as our members' life blood.

We applaud the FCC's leadership in seeking input from all interested parties to make sound public policy judgments. Our comments seek to assist the agency in ensuring that any decisions on open access serve to foster growth of high-speed Internet as effectively as possible.

ACT is a national education and advocacy group for America's technology industry. Representing mostly small- and mid-sized companies, ACT is the industry's strongest voice when it comes to preserving competition and innovation in the high-tech sector. ACT member companies include software developers, content providers, and IT consulting firms, who see the benefits of greater broadband investments to serve residential users in the following manner:

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<b>Application</b>	<b>Business Opportunities</b>	<b>Customer Benefits</b>
Multimedia content	Richer content leading to more viewers and more advertising revenue	Richer user experience
Videoconferencing	New market for software tools and new hardware including cameras and microphones; services for private directory management, multi-party conferencing and seminars.	Supports telecommuting and enables rural workforce
Distance Learning	New market for educational content publishing services; Need for software tools for testing and tracking. New hardware requirements including write pads, microphones, and cameras	Expands the IT-enabled workforce; especially to remote areas
Collaboration	Software: groupware tools Services: hosting and facilitation	Supports telework and enables rural workforce participation
Just-in-time applications (ASP)	Software publishing and add-on products; per-use fees; support charges; virtual storage	Instant startup for teleworkers; new employees; and new locations
Extranet/Intranet	Additional deployment of groupware tools; workflow apps	Supports telework and enables rural workforce participation
Service delivery to remote areas (e.g., Telemedicine)	Need for diagnostic applications; Expanding market for new devices	Enables and supports rural workforce participation
Smart appliances ("always on" enables remote control and status checks)	New software and hardware to control household devices; new hardware; value-added services, like internet grocery chains checking refrigerator inventory	Home security and remote management of household lighting and heating systems

There is one thing everyone can agree on: broadband is a good thing. Broadband offers a new and exciting way to access the Internet, at speeds 10-100 times faster than dial-up telephone connections. Consumers across the country are demanding broadband service for their homes and businesses. Businesses and content providers see broadband as essential for delivering, graphics, audio, and video. Broadband will enable internet-based interactive communication, opening a new world of possibilities for video conferencing among family members, for home-based businesses, and especially for home-based learning.

Another point of agreement is that the "network effect" will be a powerful force in broadband Internet access. That is, the value of broadband increases exponentially with the number of broadband users. To benefit from this network effect, industry needs to make broadband available and affordable to more homes. That requires tremendous investments in equipment, infrastructure, and services. Over \$31 *billion* has been invested by the cable industry since the Telecommunications Act of 1996 became law.

Not everyone agrees, however, that growing broadband investment and deployment by cable providers is such a good thing. Cable broadband is unquestionably a competitive threat to narrowband Internet service providers, who charge customers up to \$20 per month for modem dial-up access. Narrowband ISPs with the most to lose from broadband competition have asked government to force cable Internet providers to share broadband facilities. It amounts to forced access to the cable companies' equipment, but proponents prefer the label "open access", as if there were something "closed" about using the internet over cable lines instead of through dial-up modems. Cable broadband users can attest to the fact that their Internet use is fully "open", as they can view any site on the web.

The narrowband ISP industry grew around the need for phone lines to connect to the Internet. ISPs leased facilities from phone companies and used them to allow their customers to connect to the Internet. However, broadband users no longer need the services provided by their dial-up ISP. "Choice" between ISPs is absolutely meaningless to customers and the technology industry, and amounts to no more than a branding exercise. To be clear, ISPs lacking broadband facilities can do nothing to speed deployment of broadband.

However, even a "facilities-free" ISP may have lots of loyal customers, and could negotiate commercial deals with cable providers to reduce their sizable customer acquisition costs. ISPs who offer compelling content or services can likewise negotiate arrangements with cable providers looking to attract new customers and offer additional services.

It has always been our belief that this ill defined "open access" effort was a negotiating tactic for some large ISPs to make deals with cable providers, and a stalling tactic for phone companies who are slow to invest in their own DSL broadband capacity. It is ironic that the primary supporters of the forced access movement are companies with no intention of actually becoming cable ISPs, which underscores the notion that their intention is to delay cable deployment. Whatever their motivation, the forced access proponents are wrong on principle, and the practical impact of forced access will be to delay and discourage investment in cable broadband upgrades.

To address the questions presented by the FCC throughout the NOI (particularly Sections B and C), ACT offers the following observations and recommendations:

- ❑ Broadband is a good thing. And more of a good thing is even better. The FCC reported in Oct-2000 that, "High-speed lines connecting homes and small businesses to the Internet increased by 57% during the first half of 2000, to a total of 4.3 million lines (or wireless channels) in service from 2.8 million at the end of 1999."
- ❑ It's essential to preserve the financial incentives for broadband providers to make the tremendous investments needed.

- ❑ All levels of government should resist creating regulatory restrictions that will slow down broadband investment and deployment.
- ❑ We applaud the non-discriminatory practices being followed by cable internet access providers, offering access to anything on the web, regardless of where content originates. If broadband providers choose to constrain bandwidth used by high-demand protocols (e.g., interactive video and audio), then such constraints should be applied uniformly, regardless of where content originates or which service provider is delivering the content. Likewise, efforts to cache frequently requested content should not discriminate based on content origin.
- ❑ We ask that the FCC remain vigilant, focusing on promoting more broadband capacity for consumers—not on forcing cable providers to provide facilities to ISPs.

ACT is available to offer any assistance you may need. Please do not hesitate to contact me at (202) 331-2130.

Respectfully,



Jonathan Zuck  
President